IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.862 OF 2006
IN
CRIMINAL APPEAL NO. 655 OF 2006

Mr. Baban Sandip Parde. ... Applicant.

V/s.

The State of Maharashtra ... Respondents.

Mr.K.K. Malpathak, for the Applicant.

Mr.Rajesh More, A.P.P. for the State.

CORAM : A.S. OKA, J.
DATE : 01ST SEPTEMBER, 2006.

P.C. :

1. Heard learned Advocate for the Applicant and learned A.P.P. for the State.

2. The Applicant has been convicted for the offences punishable under Section 376 and 506 of the Indian Penal Code. He has been sentenced to suffer rigorous imprisonment for 5 years and to pay fine of Rs.5,000/-. Notes of evidence have been annexed to the memorandum of Appeal. I have gone through the notes of evidence.

3. There are certain glaring facts which are required to be considered for the purposes of grant of bail. Admittedly, the Prosecutrix disclosed her age to the Police as 19 years. The Prosecutrix has admitted that her hut in which the alledged incident has taken place is surrounded by many other huts and there are other huts having walls common with the hut of the prosecutrix. She

has stated that even if someone speaks in the adjacent hut, it is possible to hear him in her hut. There is nothing on record to show that there was any protest on the part of the Prosecutrix. Even the Medical Officer has not been examined. Even according to the case of the Prosecutrix, after the incident which took place at about 1.00 a.m., she slept in the hut and woke up at about 11.00 a.m. after her mother came to the house.

4. The Applicant was enlarged on bail during the pendency of the trial. Considering the pendency of very old Appeals, the Appeal of the Applicant is not likely to be heard in near future. Considering the facts of the case, the Applicant is entitled to be enlarged on bail during the pendency of the Appeal.

5. Hence, Application is disposed of by passing the following order :-

(a) The Applicant shall be enlarged on the same bail on which he was enlarged during the pendency of the trial subject to filing fresh bail bonds.

JUDGE